

Assembly Bill No. 1331

CHAPTER 465

An act to add Section 13757 to the Welfare and Institutions Code, relating to foster youth.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1331, Evans. Foster youth: federal benefits.

Existing law provides for the placement of certain children in foster care under the custody of the State Department of Social Services and county welfare departments.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds, with moneys from the General Fund being continuously appropriated to pay for the state's share of AFDC-FC costs.

Existing law, the federal Social Security Act, provides for benefits for eligible beneficiaries, including survivorship and disability benefits and Supplemental Security Income (SSI) benefits for, among others, blind and disabled children. The act authorizes a person or entity to be appointed as a representative payee for a beneficiary who cannot manage or direct the management of his or her money. Existing law also provides for the State Supplementary Program for Aged, Blind and Disabled under which State Supplemental Payments (SSP) are made in supplementation of SSI benefits.

Existing law requires a county to apply to become a child's representative payee for purposes of these federal benefits during the time the child is placed in foster care, and also requires the county to provide information regarding certain federal requirements when a foster youth who is receiving SSI payments is approaching his or her 18th birthday.

Existing law requires the State Department of Social Services to convene a workgroup to develop best practice guidelines for county welfare departments to assist eligible children who are in the state's or a county's custody and are qualified under the bill in obtaining federal social security and supplemental security income benefits. Existing law requires the workgroup to make recommendations to the department, by December 31, 2006, regarding the feasibility and cost-effectiveness of reserving a designated amount of foster children's social security and SSI/SSP benefits in lieu of reimbursing the county and the state for care and maintenance, and, in making those recommendations, to consider that the reserved benefits

would be for the purpose of assisting the foster child in the transfer to self-sufficient living in a manner consistent with federal law.

This bill would require a county to screen each foster youth in foster care who is at least 16 years and 6 months of age and not older than 17 years and 6 months of age in order to determine whether the youth is eligible for federal SSI benefits.

This bill would make compliance with this requirement contingent upon the ability of the county to use state AFDC-FC resources for the foster youth pending the application for federal benefits, as prescribed, and would require the department to clarify that this funding mechanism is consistent with federal law.

This bill would provide that no appropriation would be made for purposes of funding the bill pursuant to the provision continuously appropriating funds for the AFDC-FC program.

By increasing county duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) When compared to youth without disabilities, foster youth with disabilities are more likely to be institutionalized, to lack sufficient education, and to have higher incidences of homelessness and mental health problems following discharge from foster care.

(b) Key to transition planning for disabled foster youth is ensuring that qualified youth are approved for all benefits, most importantly federal Supplemental Security Income (SSI) benefits, and that they are able to accumulate some level of savings to aid in their transition to independent living.

(c) Foster youth with disabilities gain significant advantages at the time of emancipation if their eligibility for SSI benefits has been established prior to their emancipation.

(d) Unfortunately, federal law and regulations prohibit a child who receives a federally funded AFDC-FC benefit in excess of the federal SSI benefits from applying for SSI until the month prior to the federal AFDC-FC benefits ending. In order to apply for SSI benefits, a child may not be receiving federally funded AFDC-FC benefits in the month of application or, depending on the timing of the application, the month after the application is filed. After the application for SSI benefits is accepted by the Social Security Administration, federal rules indicate that the child may receive

federally funded AFDC-FC benefits during the remainder of the application process. Upon approval for SSI benefits, these benefits may be suspended for up to 12 months, during which time a child may receive federally funded AFDC-FC benefits without losing eligibility for SSI benefits. Using this flexibility will allow for applications to be made on behalf of federally eligible youth who are nearing emancipation from foster care.

SEC. 2. Section 13757 is added to the Welfare and Institutions Code, to read:

13757. (a) (1) Subject to paragraph (2), every youth who is in foster care and nearing emancipation shall be screened by the county for potential eligibility for the federal Supplemental Security Income (SSI) program utilizing the best practice guidelines developed pursuant to Section 13752.

(2) The screening required in paragraph (1) shall only occur when the foster youth is at least 16 years and six months of age and not older than 17 years and six months of age. An application shall be submitted to the federal Social Security Administration on behalf of a youth who is screened as being likely to be eligible for federal Supplemental Security Income benefits. To the extent possible, the application shall be timed to allow for a determination of eligibility by the Social Security Administration prior to the youth's emancipation from care including, if appropriate, the suspension of Supplemental Security Income benefits for no more than 12 months.

(b) In carrying out the requirements of subdivision (a) for a youth receiving federally funded AFDC-FC benefits, the county shall, if necessary, forego federally funded AFDC-FC and instead use state AFDC-FC resources to fund the placement in the month of application or in the month after making an application, and to subsequently reclaim federally funded AFDC-FC, in order to ensure that the youth meets all of the SSI eligibility requirements in a single month while the application is pending, as provided by federal law and regulation. Notwithstanding subdivision (a) of Section 11402, this section shall apply to a foster youth regardless of his or her federal AFDC-FC eligibility.

(c) Prior to the implementation of subdivision (b), the State Department of Social Services shall obtain clarification from the Social Security Administration and the United States Department of Health and Human Services by January 1, 2008, that the funding mechanism described in subdivision (b) is consistent with federal law and regulation.

SEC. 3. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for the purposes of funding this act.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.